

17-41-405 Eminent domain restrictions.

- (1) A political subdivision having or exercising eminent domain powers may not condemn for any purpose any land within an agriculture protection area that is being used for agricultural production or any land within an industrial protection area that is being put to an industrial use unless it has obtained approval, according to the procedures and requirements of this section, from the applicable legislative body and the advisory board.
- (2) Any condemnor wishing to condemn property within an agriculture protection area or industrial protection area shall file a notice of condemnation with the applicable legislative body and the agriculture protection area or industrial protection area's advisory board at least 30 days before filing an eminent domain complaint.
- (3) The applicable legislative body and the advisory board shall:
 - (a) hold a joint public hearing on the proposed condemnation at a location within the county in which the agriculture protection area or industrial protection area is located;
 - (b) publish notice of the time, date, place, and purpose of the public hearing:
 - (i) in a newspaper of general circulation within the agriculture protection area or industrial protection area, as the case may be; and
 - (ii) on the Utah Public Notice Website created in Section 63F-1-701; and
 - (c) post notice of the time, date, place, and purpose of the public hearing in five conspicuous public places, designated by the applicable legislative body, within or near the agriculture protection area or industrial protection area, as the case may be.
- (4)
 - (a) If the condemnation is for highway purposes or for the disposal of solid or liquid waste materials, the applicable legislative body and the advisory board may approve the condemnation only if there is no reasonable and prudent alternative to the use of the land within the agriculture protection area or industrial protection area for the project.
 - (b) If the condemnation is for any other purpose, the applicable legislative body and the advisory board may approve the condemnation only if:
 - (i) the proposed condemnation would not have an unreasonably adverse effect upon the preservation and enhancement of agriculture within the agriculture protection area or of the industrial use within the industrial protection area; or
 - (ii) there is no reasonable and prudent alternative to the use of the land within the agriculture protection area or industrial protection area for the project.
- (5)
 - (a) Within 60 days after receipt of the notice of condemnation, the applicable legislative body and the advisory board shall approve or reject the proposed condemnation.
 - (b) If the applicable legislative body and the advisory board fail to act within the 60 days or such further time as the applicable legislative body establishes, the condemnation shall be considered rejected.
- (6) The applicable legislative body or the advisory board may request the county or municipal attorney to bring an action to enjoin any condemnor from violating any provisions of this section.

Amended by Chapter 90, 2010 General Session